

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

ADAM SIMMONS
MOVANT

V.

UNITED STATES OF AMERICA *
RESPONDENT *

*
* CV NO. 1:23-CV-01248-
* STA-jay
*

MOTION FOR RECONSIDERATION OF THIS COURTS
ORDER DISMISSING MOVANTS SECTION 2255
MOTION WITHOUT PREJUDICE DATED JUNE
10, 2024 IN THE ABOVE CAPTIONED CASE

Comes Now, Adam Simmons, hereafter Movant, Pro-Se.
Movant requests a liberal construction of this pleading.
HANES V. KERNER, 404 U.S. 92 S.CT 594 (1972)

PERTINENT FACTS

1. On September 13, 2022, this Court accepted Movants guilty plea to count 2 of the indictment in violation of 21 U.S.C. sec. 841 (a)(a)
2. On December 13, 2022 this Court imposed a sentence of 151 months of imprisonment followed by 3 years supervised release.
3. Movant thereafter filed a timely appeal with the Circuit Court. The Court denied said appeal on July 24, 2023.
4. On November 17, 2023 Movant filed a timely sec. 2255 motion with this Court. However, because the motion did not comport with the Court's procedural rules, the Court ordered Movant to file an amended motion. See, Order dated April 11, 2024.

5. On or about April 23, 2024 following this Courts directive Movant delivered the Amended motion to Mr. Hernandez, Counselor Unit C Team. Mr. Hernandez thereafter stated that he posted the legal mail with the prison mail department.

6. It is noteworthy to advise the Court that during the month of April through June the prison other than short periods of time a few days a week remained locked down as a result of security reasons or because of chronic short staffing. In due diligence, Movant contacted the Clerk of the Court 2-3 times to confirm receipt of the motion. His last discussion was with Ms. Sherwin on or about June 12, 2024 and was informed of the Courts Order dismissing the motion. Movant has diligently been pursuing filing said motion with the Court, whenever the prison is not locked down.

ARGUMENT

7. Movant attest under the penalty of perjury that he diligently followed this Courts directive and filed the amended motion via the prison personal. From a legal standpoint Movant avers sound ground. See, HOUSTON V. LACK, 487 U.S. 266 (1988). See also, TOWNS V. U.S. 190 F.3d 468.469 (6th. Cir 1999) (holding a Pro-se sec. 2255 motion is filed on the date prisoner delivered it to the prison mailroom personal). Moreover, because the Court dismissed without prejudice and the time period to file within the one year statutory requirement which continues to run until July 24, 2024, (the date the Circuit Court denied Movant's direct appeal), granting this motion and allowing Movant the benefit to file the amended motion consistent with the Courts April 11, 2024 ORDER is essential to afford Movant not only Procedural Due Process but also Statutory Due Process of law.

CONCLUSION

FOR THE REASONS STATED ABOVE, Movant Pray the Honorable to grant this motion and grant an extension of time until July 24, 2024 to file his Sec. 2255 motion consistent to the Courts April 11, 2024 ORDER

CERTIFICATE OF SERVICE

I declare, I have mailed a true copy of the attached to:

The United States Attorney's Office at:
109 South Highland, Suite 300
Jackson Tennessee 38301

On this 25 day of June 2024

Adam Simmons, Pro-Se
Registration No. 81329-509
USP Coleman-1
P.O. Box 1033
Tennessee 38301
Coleman FL. 33521

Adam Simmons

TRULINCS 81329509 - SIMMONS, ADAM - Unit: COP-C-A

FROM: 81329509 SIMMONS, ADAM

SUBJECT: TO THE CLERK OF THE COURT

DATE: 06/20/2024 01:28 PM

Dear Ms. Sherwin

Please find enclosed my motion for reconsideration of the Courts decision June 10, 2024.

Please note we have no access to law library, typewriters so I composed this pleading on our TRULINKS e-mail, which is the best I can do because we are constantly locked down and time is off the essence.

Please note I did serve the the United States Attorney's Office on this even date.

Thank you

Adam Simmons.

On this 25 day of June 2024

Adam Simmons